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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re A.F. et al., Persons Coming
Under the Juvenile Court Law.

B290849

(Los Angeles County
Super. Ct. No. 18CCJP01905)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.V.F.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Robin Kesler, Juvenile Court Referee. Affirmed.

Gina Zaragoza, under appointment by the Court of Appeal,
for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Brian Mahler, Deputy County Counsel, for Plaintiff and Respondent.

A.V.F. (Father) has four children with C.V. (Mother). Mother and two of the children suffer from mental health issues. The juvenile court asserted jurisdiction over all the children and declared them dependents of the court based on Mother's inability to provide regular care for the children, Father's failure to protect the children from Mother, and both parents' failure to provide appropriate mental health treatment for the two children who need it. We consider whether Father's challenge to the jurisdiction findings the court made against him is justiciable in light of unchallenged jurisdiction findings against Mother. We also decide whether the juvenile court abused its discretion by declaring the children dependents of the court rather than pursuing a plan of informal supervision.

I. BACKGROUND

Father and Mother have four children: A.F., I.F., C.F., and Y.F. The children were eleven, nine, four, and three years old, respectively, when the Los Angeles County Department of Children and Family Services (the Department) filed a two-count petition pursuant to Welfare and Institutions Code section 300, subdivision (b)¹ in March 2018. Count b-1 of the petition alleges Mother suffers from mental and emotional problems for which she "failed to regularly participate in mental health treatment," thereby "render[ing] [her] unable to provide regular care for the children." As to Father, count b-1 alleges he "failed to protect the children when [he] knew of [Mother's] mental and emotional

¹ Undesignated statutory references that follow are to the Welfare and Institutions Code.

problems.” Count b-2 of the petition alleges Mother and Father failed to address the mental health issues of the two oldest children, A.F. and I.F.

The Department described the family’s struggle with mental health issues in reports submitted in advance of the juvenile court’s jurisdiction and disposition hearing. We shall elaborate in greater detail.

A. Referrals Predating the Current Dependency Proceeding

In February 2015, the Department substantiated allegations that, among other things, A.F. and I.F. were “verbally and physically aggressive with their parents and with other children at school” and I.F. would make “inappropriate comments, about killing and stealing, for a child his age.” The family accepted a voluntary family maintenance plan.

In 2016, the Department filed a dependency petition alleging Mother “has mental and emotional problems, including a diagnosis of Paranoid Schizophrenia”; “has been involuntarily hospitalized for the evaluation and treatment of [her] psychiatric condition”; and “failed to take [her] psychotropic medication as prescribed,” rendering her “unable to provide regular care [for] the children.” The Department further alleged Father failed to protect the children by “allow[ing] [Mother] to have unlimited access to the children” even while aware of her mental and emotional problems. The juvenile court sustained the allegations and ordered individual counseling for Mother, a program offered by the National Alliance of Mental Illness for Father, parenting classes for both parents, and wraparound services and monitoring for the children. The Department subsequently

reported that Mother and Father were in compliance with the case plan and the juvenile court terminated jurisdiction in May 2017.

B. March 2018 Referral and Investigation

1. Initial visit to family home

Less than a year later, in March 2018, the Department received an anonymous call alleging, among other things, Mother had recently stopped taking her medication and was behaving “erratic[ally],” including by “yelling and screaming at the children.” The caller reported Mother told neighbors “her son is always talking about killing himself and she told him to ‘go ahead and kill yourself already.’” The caller also said Mother was hospitalized “for a few days [and] then after her release . . . went missing.”

In response to the referral, a social worker made an unannounced visit to the family’s apartment. The social worker spoke first with Father. Father said Mother had a psychiatrist appointment about two weeks earlier, but prior to this appointment had not received mental health treatment for about six months. According to Father, about a week after the appointment (i.e., a week prior to the social worker’s visit), Mother had gone to stay with Maternal Grandmother because she was “depressed and did not have much patience for the children.” After going to stay with Maternal Grandmother, Mother was involuntarily hospitalized.

Father denied Mother had gone missing upon her release from the hospital. He had not been working for “the past few days” because he did “not want to leave the children with [M]other until she is stable.” As to the children’s mental health,

Father said I.F. “frequently states that he is going to kill himself but neither he nor [M]other believe that his threats are real.” Both parents “have told the child to go ahead and do it but would never allow him to hurt himself.” They have also “explained to the child what ‘killing’ means and the child states that he does not want to do that.”

A Department social worker also interviewed Mother. The social worker reported Mother had “scattered thoughts during the interview and was redirected by [the social worker] numerous times.” Mother echoed Father’s statements that she had kept a recent appointment with a new psychiatrist and she further revealed she was not prescribed medication because she needed to undergo blood testing first. Mother also provided more detail about her recent stay with Maternal Grandmother, explaining she had gone to stay with her because “she was stressed” on account of A.F. and I.F. “beat[ing] her up.” Mother explained she was hospitalized when Maternal Grandmother “got scared and called the police” because Mother was teaching a cousin what she called “karate skills.”

Mother believed she spent three days “locked down” in the hospital. She denied having gone missing upon her release. She also denied ever hitting the children or “putting them down,” but she admitted to “sometimes . . . us[ing] bad language when she is upset” and to having recently broken a sink by throwing a toothbrush holder at it when the children were fighting and she “got frustrated.”

As to the children’s mental health, Mother acknowledged I.F. had been hospitalized for making suicidal statements and “continued to make statements that he wants to kill himself.” Mother also acknowledged telling I.F. to “go ahead and throw

[himself] out the window,” but said she “would never actually allow him to hurt himself.” She said I.F. “recants[,] stating he does not really want to kill himself” when she tells him she loves him and explains what it means to kill oneself.

After speaking with Mother, the social worker interviewed each of the children individually. When finished, the social worker briefly stepped outside the family home. Once she came back inside, “Mother’s mood appeared to have shifted.” Mother claimed someone put chili powder in her soft drink and that, when she got up to throw it away, “[A.F.] got in her face and told her that he was going to hit her again.” She was “speaking loudly” and “using a broom to point at the children.” Mother screamed at Father when he offered to get her another soft drink. Mother said that if Father did not care about throwing away his money, she would give it to the social worker. She ran to a closet to retrieve several hundred dollars, frightening C.F., and attempted to give the money to the social worker.

The social worker asked Father to take the children into the bedroom while she spoke with Mother in the living room. A.F. locked himself in the bathroom and began punching the walls. Father called one of Mother’s friends to pick her up and arranged for Mother to stay with Maternal Grandmother. After Mother left, A.F. emerged from the bathroom and said, “Did that bitch leave? I fucking hate her. There are so many reasons why I want to fucking kill her.”

Once Mother was out of the home, Father remarked to the social worker that Mother “was fine and took her medication in the morning.” He denied having previously told the social worker that Mother does not take any psychotropic medication. Father

agreed to contact law enforcement if Mother returned to the home.

2. Follow-up with Mother

About a week later, two social workers visited Mother at Maternal Grandmother's home. Mother was cooperative, but she "appeared confused" and asked "repetitive questions." The social workers observed her demeanor would "drastically shift" from calm to tearful or angry.

Mother once again described a recent incident in which A.F. and I.F. hit her and said she has difficulty disciplining the children because Father does not enforce her rules. Mother also elaborated on I.F.'s talk of suicide. She denied "telling her neighbors that [I.F.] was always talking about killing himself and that she told [I.F.] 'go ahead and kill yourself,'" but she admitted telling I.F. to throw himself out a window. Mother explained she makes "such comments" to scare I.F., but she immediately tells him she loves him.

Mother said she was regularly taking psychotropic medication prescribed several weeks earlier, before she was hospitalized, and no longer felt depressed. She reiterated her view that her recent hospitalization was the result of Maternal Grandmother being a "scar[ed]y cat" and overreacting to her breaking a trashcan with her foot (the result of the aforementioned "karate skills" demonstration).

The social workers spoke with two of Mother's cousins who live with Maternal Grandmother. The cousins said Mother had "beg[u]n to say that she wanted to hurt herself and 'that only God can help her with all this going on.'" The family had hidden all the knives in the home "because [M]other threatens to cut her veins." On the day Mother was hospitalized, she had been awake

for “[five] days straight without sleeping at all,” was talking “about all her martial arts and how she was going to use her moves to defend herself,” and had to be restrained by police officers. Maternal Grandmother corroborated the cousins’ account and said Mother was hospitalized once before for mental health issues (she was unable to provide details concerning the earlier incident).

About a week after the Department’s follow-up visit with Mother, a social worker contacted a mental health clinic to confirm Mother had kept a scheduled appointment. She had not. She did, however, attend an appointment a few days later.

3. Follow-up with Father

A few days after the follow-up visit with Mother, a Department social worker met with Father. The social worker reported Father “appeared to minimize [M]other’s mental health condition as he stated that she was fine and that the Department had nothing to worry about.” Father claimed he knew Mother had been prescribed psychotropic medication about two years earlier, but he did not know what medication was prescribed. Father did confirm Mother had been without mental health services for about six months.

As to the children’s mental health, Father denied telling any of his children to go ahead and kill themselves. He disclosed A.F. had been hospitalized the day before because he was making suicidal statements at school. The Department learned from follow-up conversations with A.F. and care providers that A.F. was depressed and blamed himself for Mother’s absence from the family home.

C. The Dependency Petition and Further Department Investigation

In March 2018, the Department filed the petition described *ante*. The juvenile court found there was a prima facie case that the children were described by section 300, subdivision (b)(1) and ordered them released to Father.

The Department interviewed the family again in April 2018. Father explained Mother was previously receiving services from a provider that “terminated services” and Mother was “supposed to go elsewhere.” He “kept asking if she had heard back from the new place but she would say no.”² He reported that “the time just ‘lapsed’” and it had been six to eight months since Mother received treatment. When Father would “ask[]” and “wonder[]” about whether Mother was taking prescribed medication, she would assure him she was. Father explained he asked Maternal Grandmother to look after Mother before she was hospitalized in February 2018 because she was “depressed and would sleep a lot.” He insisted, however, that Mother was “good with the kids,” and he said he took time off work to attend to them when necessary.

As to A.F. and I.F., Father said both children had received mental health treatment for a long time. Father said A.F.’s recent hospitalization was not Father’s and Mother’s fault because A.F. threatened to kill himself at school and he was upset Mother was not at home. Father denied having heard Mother tell I.F. to jump out a window.

² The Department reported that a case worker at the service provider said services for Mother were terminated after she declined them in February and March 2018. Father attempted to reinstate services after Mother was hospitalized.

In her interview with a Department investigator, Mother disputed all the dependency petition's allegations concerning her mental health issues. She contended she was "misdiagnosed" with paranoid schizophrenia and her "'true' diagnosis is 'nothing.'" Nonetheless, she maintained she always took her prescribed medication. Mother also claimed she and Father sought all necessary help for A.F. and I.F. She said they declined medication for A.F. "because 'depression goes away by taking him out and loving on him.'" Mother denied telling I.F. to jump out a window and explained, rather, that in response to I.F. saying he wanted to die, she "grabbed the biggest knife and told him to take it." He "got surprised" and "concerned," which was "the reaction [Mother] wanted."

A Department investigator spoke to A.F. and he said Mother has "anger issues" that need to be addressed. A.F. admitted that he, too, has anger issues and explained he was hospitalized "because he got angry and wanted to kill himself." After calling Mother a "dick head" and saying he hated her, A.F. said he "didn't mean it, that he didn't want to kill him[self,] and . . . it was 'stupid' [for him] to be sent to the hospital for 'that.'" A.F. said he did not witness Mother telling I.F. to jump out a window, but said Mother told him she made the remark.

I.F. also said Mother has anger issues and does not take her medication. He knew this because he never saw her take medication "and the parents would argue about it." He said Mother "once said she wanted to kill 'us all but she didn't mean it; she loves us, we're her kids.'" I.F. said he sees a therapist often and Mother never told him to jump out a window. He said he was previously hospitalized for saying he wanted to kill himself at school "because they didn't give him what he wanted."

He said he was hospitalized more recently because “he wanted to kill [A.F.] because he kept calling him retarded.”

In a last-minute information report filed in June 2018, just before the jurisdiction and disposition hearing, the Department reported Mother had been “for the most part consistent” in attending mental health appointments and “appear[ed] to be compliant with treatment.” Mother’s demeanor was more calm and focused. Father, however, “insisted on blaming [the Department] for separating [Mother] from her children” and “stated that [the Department] caused tremendous stress on [Mother,] causing her to become depressed and eventually leading to her hospitalization.” He also said the children “misbehave whenever anyone from [the Department] is involved in their lives.”

D. Jurisdiction and Disposition Hearing

At the jurisdiction and disposition hearing, the court sustained the dependency petition’s allegations (with amendments in count b-2 that are of no concern in this appeal). Addressing Father directly at the hearing, the court stated: “[I]t’s obvious you don’t understand mental health based upon your statements in the reports. It is not the Department’s fault that [Mother] failed to take her medication. . . . [Y]ou need to learn what to do when you recognize Mother is not taking her medication because she cannot remain with your children when she’s not. No matter what the stressors are, whether or not it’s the [D]epartment and the family’s life, whether or not it’s money, whatever the issue may be, if Mother stops taking her medication, you, sir, need to then take steps to protect your children.”

The court declared the children dependents of the court and ordered them to remain in Father's custody. The court also ordered Mother and Father to participate in individual counseling, as well as conjoint counseling to "address what to do if Mother doesn't take medication."

II. DISCUSSION

Father contends no substantial evidence supports the juvenile court's jurisdiction findings against him because he took steps to protect the children from Mother and ensured A.F. and I.F. received mental health services. We need not address Father's jurisdiction challenge in light of the juvenile court's uncontested finding that jurisdiction over the children was proper based on Mother's conduct, but we shall explain why we would in any event affirm the finding that Father was also an offending parent. Specifically, substantial evidence indicates Father minimized the severity of Mother's mental health issues and did not take adequate measures (though he did commendably take *some* measures) to respond to Mother's erratic behavior and ensure the children were not exposed to serious physical harm.

Father also contends the juvenile court abused its discretion by declaring the children dependents of the court rather than ordering informal supervision. We hold the juvenile court was well within its discretion to conclude the family's recurring mental health issues required greater Department and court involvement than informal supervision would provide.

A. *We Need Not Consider Father's Challenge to the Jurisdiction Findings*

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*), quoting *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; see also *In re I.A.* (2011) 201 Cal.App.4th 1484, 1491 [dependency law’s primary concern is the protection of children] (*I.A.*).) Father does not challenge the findings the juvenile court made against Mother that justify assuming jurisdiction over the children and we therefore need not consider the sufficiency of the evidence to support the juvenile court’s jurisdictional findings that are specifically adverse to him. (*I.A.*, *supra*, 201 Cal.App.4th at p. 1492 [“For jurisdictional purposes, it is irrelevant which parent created [the] circumstances” triggering jurisdiction]; see also *In re Briana V.* (2015) 236 Cal.App.4th 297, 308; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397 [“[A] jurisdictional finding good against one parent is good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent”].)

Although we affirm the jurisdiction findings for this reason, making it unnecessary to address the evidentiary support for the juvenile court’s findings against Father, we nevertheless opt to briefly describe, for Father’s benefit, why at least one of the dependency allegations as against him was supported by substantial evidence. (*In re Alexis E.*, *supra*, 171 Cal.App.4th at

p. 451 [affirming finding of jurisdiction over minor because the father did not challenge the domestic violence allegations but “not[ing]” the court’s view on the challenged finding “for [the] Father’s benefit”]; see also *I.J.*, *supra*, 56 Cal.4th at p. 773.)

B. Substantial Evidence Supports the Juvenile Court’s Finding That Father Failed to Protect the Children from the Risk That Mother’s Mental Problems Posed to Their Safety

Section 300, subdivision (b)(1) authorizes a juvenile court to assume dependency jurisdiction over a child when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child” Where it is not alleged the child or children have already suffered serious physical harm or illness, the juvenile court must determine whether a substantial risk exists at the time of the jurisdiction hearing. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) The court may “nevertheless consider past events when determining whether a child presently needs the juvenile court’s protection” because “[a] parent’s past conduct is a good predictor of future behavior.” (*Ibid.*) “In reviewing the jurisdictional findings . . . , we look to see if substantial evidence, contradicted or uncontradicted, supports them.” (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Father contends the allegation he “failed to protect the children when [he] knew of [Mother’s] mental and emotional problems” is baseless because, as he puts it, he “encouraged [Mother] to take her medication, requested services, stayed home from work to care for the children, followed court orders, and

adequately parented the children in the time leading up to the jurisdiction hearing.” Even if all this were true, Father’s persistent belief that Mother was “fine” and her depression was triggered by the Department’s investigation gave the juvenile court adequate grounds to believe there was a substantial risk he would be averse to seeking help if and when Mother exhibited dangerous behavior in the future—as she had repeatedly in the past. (See *In re Esmeralda B.* (1992) 11 Cal.App.4th 1036, 1044 [“denial is a factor often relevant to determining whether persons are likely to modify their behavior in the future without court supervision”].)

But we believe Father overstates the extent to which he was proactive in protecting the children from Mother. Even though there had been prior dependency proceedings resulting from Mother’s mental health issues—including a sustained allegation that Father knew of Mother’s mental and emotional problems and failed to protect the children—Father did not vigilantly monitor Mother’s mental health treatment. Father acknowledged that, until a week before she was involuntarily hospitalized in February 2018, Mother had not received mental health treatment for six months. And Father was uninformed about Mother’s medication compliance, variously stating (a) she was taking prescribed medication in March 2018, (b) no medication had been prescribed as of March 2018, and (c) he was unaware what medication had been previously prescribed.

We also find some fault with Father’s reliance on what he describes as “enlist[ing] the assistance of” Maternal Grandmother and Mother’s friend when Mother’s “stress levels escalated.” The record reflects two instances in which Maternal Grandmother and/or Mother’s friend did indeed assist, but neither instance

demonstrates Father acted in sufficiently preemptive fashion to provide assurances that he is able to protect the children without the benefit of additional support and supervision by the Department. In the first instance when Father sought help, he did not arrange for Mother to stay with Maternal Grandmother until after she violently broke a sink. In the second instance, Father called Mother's friend and Maternal Grandmother to get Mother out of the house when a social worker was present at the home. Even if we speculate that Father would have sought help if the social worker had not been present, it is still the case that Father acted only after the situation had already escalated to Mother pointing a broom at the children and accusing them of putting chili powder in her soft drink.

All told, the evidence was sufficient, under the deferential substantial evidence standard, to justify the juvenile court's conclusion that the children faced a substantial risk of serious physical harm from Father's inability to protect them from the fallout of Mother's mental health issues.

C. The Juvenile Court Did Not Abuse Its Discretion by Declaring the Children Dependents of the Court

"Once the juvenile court finds jurisdiction under section 300, it must adjudicate the child a dependent unless the severity of the case warrants nothing more than [the Department's] supervision of family maintenance services. Under section 360, subdivision (b), if appropriate, the court may, without adjudicating the child a dependent, order that services be provided to keep the family together under the informal supervision of the child welfare agency. [Citations.]" (*In re N.M.* (2011) 197 Cal.App.4th 159, 171 (*N.M.*)) "Whether to [order

informal supervision] under section 360, subdivision (b), is a discretionary call for the juvenile court to make; it may opt to do so, but it need not. . . . The appropriate test is whether the court exceeded the bounds of reason. [Citation.]” (*Ibid.*)

Father contends the juvenile court abused its discretion because “[b]oth parents showed a commitment to comply with the court’s orders” and an order of informal supervision “would have accomplished the goal of child protection without the unnecessary interference of actual court supervision.” The Department contends the argument is forfeited because Father did not argue for informal supervision at the disposition hearing—even though he did request, at the earlier detention hearing, that the Department assess whether informal supervision would be appropriate. We decline to find forfeiture and instead reject Father’s challenge on the merits.

Just weeks before the disposition hearing, Father blamed the Department for Mother’s depression and the children’s behavior. During the Department’s investigation, both parents minimized Mother’s mental health issues and A.F. and I.F.’s suicidal statements. The record before the juvenile court amply supports a determination that formal supervision was appropriate because there remained an unacceptable risk Father would once again give Mother unlimited access to the children while her mental and emotional problems were not well controlled. (See *N.M.*, *supra*, 197 Cal.App.4th at p. 171 [juvenile court did not abuse discretion in ordering formal supervision because “[a]lthough there was evidence that [the father] was largely cooperative and had started services before the joint jurisdictional and dispositional hearing, the potential for recurrence of the abuse remained”].)

DISPOSITION

The juvenile court's jurisdiction findings and disposition order are affirmed.

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BAKER, J.

We concur:

RUBIN, P. J.

MOOR, J.